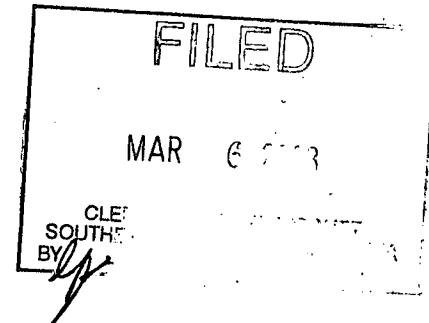


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3 CAROLINE P. HAN  
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11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) Magistrate Case No. 08MJ0555

12 ) Plaintiff,

13 ) v.

14 MARIO RODRIGUEZ,

15 ) Defendant.

08CR622-wqm  
STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Caroline P. Han, Assistant United States Attorney, and defendant MARIO RODRIGUEZ, by and through and with the advice and consent of Gerard J. Wasson, counsel for defendant, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

//

CPH:es:2/26/08

1           2.    Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3.    Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **March 26, 2008**.

6           4.    The material witnesses, Gonzalo Gonzalez-Palacio, Jose Felix Flores-Gonzalez and  
7 Miguel Flores-Gonzalez, in this case:

8               a.    Are aliens with no lawful right to enter or remain in the United States;  
9               b.    Entered or attempted to enter the United States illegally on or about  
10 February 22, 2008;

11               c.    Were found in a vehicle driven by defendant in or near Boulevard, California  
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no  
13 lawful right to enter or remain in the United States;

14               d.    Were paying \$1,500 - \$2,000 to others to be brought into the United States  
15 illegally and/or transported illegally to their destination therein; and,

16               e.    May be released and remanded immediately to the Department of Homeland  
17 Security for return to their country of origin.

18           5.    After the material witnesses are ordered released by the Court pursuant to this  
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
22 attack, that:

23               a.    The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b.    The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such

27  
28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Mario Rodriguez

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
9 further that defendant has discussed the terms of this stipulation and joint motion with defense  
10 counsel and fully understands its meaning and effect.

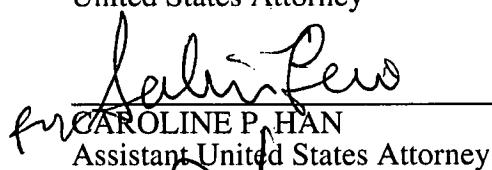
11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
12 immediate release and remand of the above-named material witness(es) to the Department of  
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

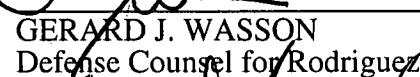
15 Respectfully submitted,

16 KAREN P. HEWITT  
17 United States Attorney

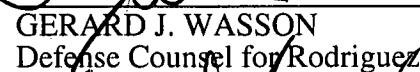
18 Dated: 3-8-08

  
KAREN P. HEWITT  
Assistant United States Attorney

19  
20 Dated: 3. 5. 08

  
CAROLINE P. HAN  
Assistant United States Attorney

21 Dated: 3. 5. 08

  
GERARD J. WASSON  
Defense Counsel for Rodriguez

22  
23 Dated: 3. 5. 08

  
MARIO RODRIGUEZ  
Defendant

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28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Mario Rodriguez

## ORDER

2 Upon joint application and motion of the parties, and for good cause shown,  
3 **THE STIPULATION** is admitted into evidence, and,  
4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
5 forthwith to the Department of Homeland Security for return to their country of origin.  
6 **SO ORDERED.**

SO ORDERED.

Dated: 3-6-08

  
John H. Thomas

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Mario Rodriguez